

REMARKS

Reconsideration of the application in view of the above amendments and following remarks is requested. Claims 13-19 are now in the case. Claim 20 has been canceled and claim 13 has been amended in the instant amendment. No new matter has been added.

The specification has been amended to capitalize trademarks and to add the TM symbol where necessary.

The Office has noted that should claim 13 be found allowable, claim 20 will be objected to as being a substantial duplicate thereof. Any objection to claim 20 has been obviated by cancellation of the claim.

Claims 13-20 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent 6,495,668 (Gilbert et al.) and U.S. Patent 6,468,543 (Gilbertson et al.). The '668 patent was cited as teaching administration of zvegf4 proteins to mammals and the proliferation of cells in the kidney. The '543 patent was cited as teaching administration of zvegf4 proteins and the proliferation of cells in the kidney. The Office believes that effects on kidney tubule epithelial cells would inherently occur upon administration of zvegf4.

Claim 13 has been amended to recite, "A method of enhancing proliferation or survival of kidney tubule epithelial cells or epithelial cell precursors in a mammal in need thereof." Support for this amendment is found within the specification at pages 2, 11, and elsewhere. The amended claim, and dependent claims 14-19, are believed to be patentable over the cited references.

Neither the '668 patent nor the '543 patent teaches or suggests the administration of zvegf4 protein for the purpose of enhancing proliferation or survival of kidney tubule epithelial cells or epithelial cell precursors in a mammal in need thereof. The '543 patent is directed to methods for promoting growth of bone. The Office has not alleged any link between a need to promote growth of bone and a need for enhanced proliferation or survival of kidney tubule epithelial cells or epithelial cell precursors. Applicants submit that different patient populations would be targetted. The '668 patent is directed to zvegf4 proteins, but does not teach or suggest their use in enhancing proliferation or survival of kidney tubule epithelial cells or epithelial cell precursors. To the contrary, both the '543 patent and the '668 patent suggest that antagonists of zvegf4 would be useful in the treatment of kidney diseases such as proliferative glomerulopathy. See, for example, the '543 patent at column 21, line 62 - column 22, line 1, and the '668 patent at column 58, line 64 - column 59, line 3. In both cases the observed effects are attributed to proliferation of capillary endothelial cells. No effect on kidney tubule epithelial cells or epithelial cell precursors is disclosed. In view of these effects, one

skilled in the art would not have been motivated to administer zveg4 to a mammal in need of enhanced proliferation or survival of kidney tubule epithelial cells or epithelial cell precursors. Thus, neither of the cited patents teaches or suggests the method of treatment recited in amended claim 13 and dependent claims 14-19.

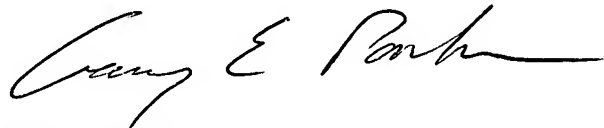
In view of the above amendments and remarks, reconsideration and withdrawal of the rejection under 35 U.S.C. § 102(e) are requested.

Claims 13-20 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1, 5, 9, and 10 of the '543 patent.

Applicants believe that this rejection has been overcome by the amendment of claim 13. As discussed above, amended claim 13 recites a method of enhancing proliferation or survival of kidney tubule epithelial cells or epithelial cell precursors in a mammal in need thereof. The claims of the '543 patent, which are directed to a method for promoting growth of bone in a mammal, do not teach or suggest the method of amended claim 1. Reconsideration and withdrawal of the rejection are requested.

Applicants believe that each rejection and objection has been addressed and overcome. Reconsideration of the application and its allowance are requested. If for any reason the Examiner feels that a telephone conference would expedite prosecution of the application, the Examiner is invited to telephone the undersigned at (206) 442-6673.

Respectfully Submitted,



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Enclosures:

Amendment Fee Transmittal (in duplicate)
Request for Extension of Time (in duplicate)
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